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12 Attorneys for Defendants
13 Lawrence J. Mazzola; Lawrence Mazzola, Jr;
14 William B. Fazande; Larry Lee; James R. Shugrue;
15 Vohon J. Kazarian; Tom Irvine; Robert E. Buckley;
16 Robert Buckley, Jr; Art Rud; Ron Fahy; Robert
17 Nurisso; Frank Sullivan; U.A. Local 38 Pension
18 Trust Fund; U.A. Local 38 Health & Welfare Trust
19 Fund; U.A. Local 38 Apprentice & Journeyman
20 Training Trust Fund; U.A. Local 38 Scholarship
21 Trust Fund; U.A. Local 38 Vacation and Holiday
22 Trust Fund; U.A. Local 38 Convalescent Trust Fund
23 and Richard L. Milsner

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 ELAINE L. CHAO, Secretary of Labor,
17 United States Department of Labor,

18 Plaintiff,

19 v.

20 LAWRENCE J. MAZZOLA, et al.,
21 Defendants.

Case No. C 04 4949 PJH

**STIPULATED REQUEST FOR ORDER
SHORTENING TIME ON MOTION TO
STRIKE REBUTTAL REPORT OF
PLAINTIFF'S EXPERT, SUZANNE R.
MELLEN; and [PROPOSED] ORDER**

Hearing Date: November 8, 2006

Time: ~~9:00 AM~~ 2:30 P.M.

Courtroom: Courtroom 3, 17th Floor c, 15th Fl.

Judge: Hon. Phyllis J. Hamilton

Edward M. Chen

Pursuant to Civil L.R. 6-2, Defendants Lawrence J. Mazzola, Lawrence Mazzola, Jr., William B. Fazande, Larry Lee, James R. Shugrue, Vohon J. Kazarian, Tom Irvine, Robert E. Buckley, Robert Buckley, Jr., Art Rud, Ron Fahy, Robert Nurisso, Frank Sullivan, U.A. Local 38 Pension Trust Fund, U.A. Local 38 Health & Welfare Trust Fund, U.A. Local 38 Apprentice & Journeyman Training Trust Fund, U.A. Local 38 Scholarship Trust Fund, U.A. Local 38 Vacation and Holiday Trust Fund, U.A. Local 38 Convalescent Trust Fund, and Richard L. Milsner (collectively, "Defendants"), and Plaintiff Elaine Chao, Secretary of Labor, United States Department of Labor ("DOL"), through their respective counsel, hereby request the Court shorten the time for briefing and hearing Defendants' Motion to Strike the Rebuttal Report of Plaintiff's expert, Suzanne R. Mellen.

The parties request an expedited briefing schedule because Ms. Mellen is scheduled to be deposed on November 17, 2006, which is the last day in which the parties can conduct discovery pursuant to this Court's pretrial scheduling order. Defendants believe that Ms. Mellen's opinions regarding the Integra Realty Resources Appraisal are improper "rebuttal" opinions, and should have been presented with opening expert disclosures. Moreover, Defendants will contend in their motion to strike that their ability to cross examine Ms. Mellen at deposition on her opinions has been prejudiced by the late disclosure of her opinions. The DOL does not agree with these assertions, but agrees that the issue should be resolved prior to Ms. Mellen's deposition so that the parties can efficiently conduct Ms. Mellen's deposition. This Court's ruling on whether Ms. Mellen's opinions on Defendants' motion to strike will materially affect Ms. Mellen's deposition and counsels' preparation.

Pursuant to Civil L.R. 6-2, the reasons for the requested shortening of time are also set forth with particularity in the accompanying Declaration of Katherine Ritchey in Support of Stipulated Request for Order Shortening Time.

The proposed briefing and hearing dates, as agreed to by the parties and subject to the Court's availability and approval, are as follows:

Defendants' opening brief due: October 18, 2006

Plaintiff's opposition brief due: October 25, 2006

1 Defendants' reply brief due:

October 31, 2006 BY 12:00 P.M.

2 Hearing:

November 8, 2006 at 9 a.m. 2:30 p.m. before

3 Dated: October 18, 2006

JONES DAY

Judge Chen
Chutkan C. 15th fl.

5 By: /s/ - Katherine S. Ritchey

Katherine S. Ritchey

7 Attorneys for Defendants
Lawrence J. Mazzola et. al

9 Dated: October 18, 2006

11 By: /s/ - Peter Dolan

Peter Dolan

12 Attorney for Plaintiff Elaine L. Chao,
Secretary of Labor, United States
Department of Labor.

15 **[PROPOSED] ORDER**

16 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

19 Dated: October 20, 2006

20 
PHYLLIS J. HAMILTON
21 UNITED STATES DISTRICT COURT JUDGE

22 EDWARD M. CHEN
23 UNITED STATES MAGISTRATE JUDGE